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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

1. **WRIT PETITION NO. 5799 OF 2007**

1. The Chief Executive Officer,
   Pune Zilla Parishad, Pune & 2 ors. ... Petitioners

V/s

1. Shri Tukaram Dagdoba More & anr. ... Respondents

ALONGWITH

2. **WRIT PETITION NO. 5803 OF 2007**

1. The Chief Executive Officer,
   Pune Zilla Parishad, Pune & 2 ors. ... Petitioners

V/s

1. Shri Ganpat Vitthal Jadhav & anr. ... Respondents

ALONGWITH

3. **WRIT PETITION NO. 5804 OF 2007**

1. The Chief Executive Officer,
   Pune Zilla Parishad, Pune & 2 ors. ... Petitioners

V/s

1. Shri Yashwant Dagadu Kank & anr. ... Respondents

ALONGWITH

4. **WRIT PETITION NO. 5807 OF 2007**

1. The Chief Executive Officer,
   Pune Zilla Parishad, Pune & 2 ors. ... Petitioners

V/s

1. Shri Bhagwan Baburao Pawar & anr. ... Respondents

Mr. Gajendrasingh Jadhavrao for the petitioners in all

petitions.

Mr. V.P.Sawant for the respondent No.1 in all petitions.

Mr. Arun Palekar, A.G.P. for the State in all petitions.

CORAM: SMT. NISHITA MHATRE, J.

DATED: 23RD OCTOBER, 2007.

P.C.:

1. These petitions are an utter abuse of the process of law. The petitioners have challenged the order which was passed on 12.10.1984 in Complaint (ULP) Nos.371 to 374 of 1982. By this common order, the Industrial Court had held that the petitioners have committed an unfair labour practice under Item 6 of Schedule IV of the M.R.T.U. & P.U.L.P. Act. The Industrial Court directed the petitioners to make the respondent No.1 and the complainants in the other complaints, which were decided by the common order, permanent from 1.1.1983 and to pay them all the consequential benefits.

2. It appears that the petitioners did not implement the order and, therefore, the application under Section 50 of the M.R.T.U. & P.U.L.P. Act was filed by the workmen. This application was registered as Misc. Application (ULP) No. 8 of 1988. The petitioners herein filed an application before the Industrial Court

seeking a direction to implead the Government as a party. The application was rejected by the Industrial Court on 21.4.1994. Writ petition Nos.3068 to 3071 of 1994 were filed by the petitioners against this order and were dismissed in default. Misc. Application (ULP) No.8 of 1988 was allowed. The period covered by this application was upto 29.2.1996. Recovery certificates were issued and the amounts payable under those recovery certificates were paid by the petitioners. Subsequently, other writ petitions being Writ Petition Nos.9064 to 9067 of 2005 were filed by the petitioners in which the order of the Industrial Court dated 12.10.1984 in Complaint (ULP) Nos.371 to 374 of 1982 was challenged. These writ petitions were dismissed as the petitioners had implemented the order in respect of Misc. Application (ULP) No.8 of 1988. The petitioners have also implemented the consent terms filed in Criminal Complaint (ULP) No.16 of 1985 which was preferred by respondent workmen.

3. The respondent workmen in the present writ petitions filed Misc. Application (ULP) Nos.22 to 25 of 2004 since they had not received yearly increments and other benefits in accordance with the 5th Pay Commission from 1.1.1996 to 30.11.2005 payable to them on execution of the order in Complaint (ULP) Nos. 371 to 374 of 1982.

These miscellaneous applications were allowed and it was held that the respondent workmen were entitled to certain amounts which are mentioned in the order impugned. Recovery certificates for the aforesaid amounts were issued by the Industrial Court. This order of the Industrial Court has been implemented by the petitioners by depositing the amounts ordered to be paid to the respondent workmen on 4th June, 2007 in the Industrial Court, Pune.

4. Despite the aforesaid facts, the petitioners have chosen to file the present writ petition contending that the order of the Industrial Court in Complaint (ULP) Nos.371 to 374 of 1982 is erroneous. The order of 20.2.2007 passed in Misc.(ULP) Nos.22 to 24 of 2004 has also been challenged in these petitions.

5. The petitioners have averred in these writ petitions that they have complied with the order dated 20.2.2007 on 4.6.2007 by depositing the amounts directed to be paid to the respondent workmen by the Industrial Court. Therefore, in my opinion, nothing survives in the present writ petitions.

6. The petitioners have abused the process of law by challenging the same order of 12.10.1984 in 2 different

writ petitions in respect of each of the respondent workmen, one in the year 2005 and the present petition. This order of the Industrial Court has attained finality especially since the petitioners have implemented the same after the recovery certificates were issued. The petitioners cannot keep re-opening the issue under some pretext when the order has attained the finality. There is no question of the petitioners claiming any relief after 23 years in respect of that order in the present petition.

7. As regards the common order passed in Misc. Application (ULP) Nos.22 to 25 of 2004, in my opinion, it is merely a consequential order which was passed by the Industrial Court. Admittedly, the amounts which were directed to be paid had not been paid by the petitioners to respondent workmen in these writ petitions but have been deposited in the Industrial Court. The Industrial Court shall release the amounts to the respondent workmen immediately together with accrued interest, if any.

8. Petitions rejected with costs quantified at Rs.5,000/- in each petition. The costs to be paid to the respondent workman in each petition within a period of two weeks.

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